

Agency 97

Kansas Commission on Veterans' Affairs

Articles

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Article 1.—SOLDIERS' HOME; MEMBERSHIP

97-1-1. Application for membership. No application shall be considered until the applicant has submitted a formal application on forms prescribed and furnished by the superintendent. Such application forms shall require information concerning property owned, income from such property, and income from all other sources; information concerning dependents, and such other personal information as may be required; and shall include a medical statement and the applicant's certification that he or she is unable to support himself or herself and dependents without additional aid. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

97-1-2. Investigation of applicants. All applications for membership shall be forwarded to the superintendent. Each application shall be investigated by a member of the staff of the Kansas soldiers' home and the Kansas veterans' commission, or as directed by the superintendent or the executive director of the Kansas veterans' commission. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

97-1-3. Ineligible for membership. No applicant shall be admitted to said soldiers' home who has not been an actual resident of the state of Kansas for at least two (2) years preceding the date of his or her application except that any applicant who at the time of entering service in a Kansas unit was a resident of Kansas and served in a Kansas unit during the war with Spain, Philippine insurrection, boxer uprising, World War I,

World War II, the Korean emergency or Viet Nam emergency, and who shall have been discharged or released from such services under conditions other than dishonorable, shall be admitted regardless of his or her place of residence. No person who is mentally ill, legally incompetent, who has been convicted of a felony; who is an habitual drunkard; no person who is addicted to drugs or who is not a legal resident of the United States and the state of Kansas shall be admitted to or retained as a member of said soldiers' home. No minor child shall be admitted to the home unless accompanied by a parent. No child shall be admitted or retained at the soldiers' home who is sixteen (16) years of age or over, unless such a child is in full-time school.

No person who has been married to his or her spouse for a period of less than one (1) year shall be eligible for membership unless eligible and admitted as a single person or unless the services of the spouse are required to properly care for the applicant or minor dependent(s).

No veteran, spouse, widow, widower, mother or father, unless fifty (50) years of age shall be admitted unless warranted by such person's physical condition, except that a spouse who is under fifty (50) years of age shall be admitted if the spouse's condition requires his or her constant care.

No person shall be admitted unless the military service on which the application is based is active military or naval service of the United States during any period of the war with Spain, Philippine insurrection or boxer uprising, service dates April 21, 1898, to July 4, 1902, or for service in the

Moro province of the Philippines between April 21, 1898, and July 15, 1903, World War I, the period beginning April 6, 1917, and ending November 11, 1918, or for a veteran who served with the U.S. military forces in Russia, the period beginning April 6, 1917, and ending April 1, 1920, World War II, the period beginning December 7, 1941, and ending December 31, 1946, or the Korean emergency, the period beginning June 27, 1950, and ending January 31, 1955, or the Viet Nam emergency, the period beginning August 5, 1964, and ending May 7, 1975. The discharge from the period of active federal service on which the application is based must have been under conditions other than dishonorable. No person shall be admitted as the spouse of the applicant unless the marriage is valid under the laws of the state of Kansas.

No surviving spouse of a veteran shall be admitted unless the date and other aspects of the marriage qualify under Title 38, U.S. code, chapter I, 101(3).

No person or persons shall be eligible for membership unless such person or persons are in need of public or private charity. The determination that this need exists shall not be made when the regular monthly income of the applicant without dependents exceeds the per diem rate then in effect plus the approved comfort money allowance, or the combined monthly income of an applicant and spouse exceeds the per diem rate then in effect for two (2) people, plus the approved comfort money allowance for both; or the combined monthly income of an applicant, spouse, and dependents exceeds the per diem rate then in effect for two (2) people, plus the approved comfort money allowance for two (2) people, plus fifty dollars (\$50) for each additional dependent, except in the case of an application where one (1) or more members of the applicant's family requires constant care, the cost of obtaining such care in the applicant's home community may be used to determine eligibility because of income. Waiver of this requirement may be granted by the Kansas veterans' commission. The determination that a person is in need of public or private charity shall not be made and the applicant shall be denied admission when the assessed value of his or her real property exceeds five thousand dollars (\$5,000.00) or when his or her liquid assets exceeds ten thousand dollars (\$10,000.00). Assets include cash value of life insurance. (Authorized

by K.S.A. 76-1908; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980.)

97-1-4. Approval of application, notification to applicant and right of appeal. If applicant is found to be entitled to admission, the application shall be approved by the superintendent and by the executive director of the Kansas veterans' commission. The superintendent shall notify the applicant as to the date for reporting for admission. Applicants found to be eligible for admission shall be received at the home if and when housing facilities are available, and no applicant shall report at the home until he or she has been formally notified. No applicant will be denied admission after completing formal application without having the right of personal appeal directly to the Kansas veterans' commission in accordance with appeal procedure provided by the commission. The appeal must be received within sixty (60) calendar days of the date of the decision. No person or persons shall be denied admission to the Kansas soldiers' home due to race, color, creed, or national origin. The decision of the commission when sitting as an appeal tribunal will be final. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

97-1-5. Temporary period of admission. When the superintendent finds that the physical condition of any veteran applicant who is otherwise eligible may be improved by domiciliary care sufficiently to enable him to become self-supporting, such veteran may be admitted as a member of the home for a limited period as determined by the superintendent with the approval of the executive director of the Kansas veterans' commission. Such temporary membership shall not exceed six (6) months and extended no more than two (2) additional periods. In the event continued membership is required as a result of failure of disability to improve, the member shall be removed from temporary status and placed on permanent status. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

Article 2.—RULES GOVERNING MEMBERS

97-2-1. Furloughs. Any member who desires to be temporarily absent from the Kansas soldiers' home shall obtain approval of the superintendent or the superintendent's designee. If the absence is to be for a period of more than 23

hours, the superintendent may grant a furlough. Furloughs may be granted for any period of time, not to exceed three months in any year, and may be extended by the superintendent for not more than 30 days. Each furloughed member shall notify the superintendent at least 10 days in advance if the member desires to return to the home prior to the expiration of the furlough or furlough extension. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984.)

97-2-2. Violation of rules; discipline. The superintendent of the Kansas soldiers' home shall enforce such rules and regulations as are promulgated or approved by the Kansas veterans' commission and may furlough any member who violates such rules and regulations. No member shall be discharged without notice to such member, and a right to be heard concerning such violations at a regular monthly meeting of the Kansas veterans' commission. If any member shall seek an injunction or restraining order against the Kansas veterans' commission or the superintendent of the Kansas soldiers' home for enforcing such rules and regulations or to restrain disciplinary action during the pendency of such legal proceedings, such member and his or her dependents shall not be entitled to draw any member benefits. If any member shall refuse to vacate the premises upon receiving an enforced furlough from the superintendent, such refusal shall constitute a forfeiture of his or her right to membership in the home and such member shall be forthwith discharged by the Kansas veterans' commission.

If any member shall refuse to vacate the premises upon being discharged from the Kansas soldiers' home, such member shall forthwith forfeit his or her right to members benefits for themselves and their dependents, and the Kansas veterans' commission shall institute legal proceedings to vacate the premises. (Authorized by K.S.A. 76-1932; effective Jan. 1, 1966; amended May 1, 1980.)

97-2-3. Cottages. The superintendent shall make such assignment of cottages, residence halls, nursing care facilities, and other facilities as may be found to be in the best interest of the home. No member or other person shall be permitted to move from his or her assigned quarters to other facilities of the home without the authorization of the superintendent. Every member shall be expected to keep quarters and other facilities as-

signed to him or her, or available for his or her use, clean, sanitary, and orderly at all times. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980.)

97-2-4. Hunting, not allowed. Members and employees of the Kansas soldiers' home shall not hunt or kill game of any kind on the reservation. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966.)

97-2-5. Pets. Ownership and maintenance of a domestic pet on the premises of the Kansas soldiers' home by a member or an employee shall be approved by the superintendent. Criteria for the approval shall be as follows:

(a) Domestic pets shall include only dogs, cats, birds, and fish.

(b) Only employees and members living in cottages shall be allowed pets. Pets shall not be allowed in the residence halls or the intensive care section.

(c) Pets shall be allowed in cottages only when they are properly maintained, do not become a nuisance or threat to other members and patients, and do not interfere with the normal conduct and operation of the home. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984.)

97-2-6. Subsistence allowance to members. Subsistence in kind including food, clothing, medical care, and other necessities, shall be provided members, including their dependents, upon the basis of need as determined by the superintendent subject to the approval of the executive director of the Kansas veterans' commission. The superintendent shall maintain a record of all such subsistence allowances including any changes as granted from time to time.

Any member whose monthly income exceeds one hundred fifty dollars (\$150), who lives in a cottage, and who is not furnished meals shall be required to pay not less than ten percent (10%) of their total income per month for quarters furnished, and such added charges as may be set by the Kansas veterans' commission periodically. Any member who is furnished meals and lives in a residence hall or nursing care facility shall be required to pay for maintenance and care in accordance with financial ability, but at no time shall the charge exceed the actual per diem cost of such maintenance and care, except in cases requiring the nursing facility. Veterans being provided

meals and living in a residence hall and who are receiving income from any other source shall be permitted to retain at least forty dollars (\$40) per month for comfort items, including clothing. Any member not a veteran who is being provided meals and living in a residence hall and who is receiving income from any source shall be permitted to retain at least thirty-five dollars (\$35) per month for comfort items, including clothing. Members of the home residing in a residence hall, who require nursing facility care and are admitted to the nursing care facility for a period in excess of sixty (60) days, will as of the month following the sixty (60) day period be allowed to retain not more than twenty dollars (\$20) per month for comfort items, including clothing. If the known estate of any member at any time exceeds two thousand five hundred dollars (\$2,500) the amount to be retained by the member for personal needs, including clothing, shall not exceed twenty dollars (\$20) per month if such person is not already paying the maximum charge in effect at that time. If the known estate is because of this reduction reduced to below one thousand five hundred dollars (\$1,500) this portion of the regulation will no longer apply. Charges to members shall not exceed an amount equal to the per diem cost of care for the preceding year. (Authorized by K.S.A. 76-1906, 76-1927; effective Jan. 1, 1966; amended Jan. 1, 1969; amended May 1, 1980.)

97-2-7. Overage children. If for any reason prior to the age of discharge of any child, the superintendent with the approval of the executive director of the Kansas veterans' commission, shall decide that such child is incapable of earning its support by its own labor, such child shall be designated and carried on the rolls of the home as an overage child. The superintendent shall annually designate such children who shall continue to be carried on the rolls as overage children. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980.)

97-2-8. Personal conduct. (a) No member of the Kansas soldiers' home, while within the confines of the Fort Dodge reservation, may:

- (1) Willfully disobey any lawful order given by a duly authorized officer of the Kansas soldiers' home;
- (2) assault, beat or wound another, or carry any pistol or other weapon;
- (3) curse, swear, quarrel or use violent, profane, vulgar or threatening language;

(4) willfully damage or destroy any property of another or of the state of Kansas;

(5) commit any act of lewdness or lasciviousness;

(6) be in a state of intoxication or drunkenness or to possess or use any narcotic; or

(7) disturb the peace and quiet of any person, family, or neighborhood. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980; amended May 1, 1984.)

Article 3.—DISCHARGES; TERMINATION OF MEMBERSHIP

97-3-1. Eligibility for membership. Eligibility for membership to the soldiers' home is clearly defined in K.S.A. 76-1908 based on relationship of applicant to veteran with qualifying service.

Marriage to a member of the home, other than to an eligible veteran, would not confer membership eligibility to the spouse of the member. Admission and retention of members is controlled by statutory eligibility. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-2. Termination of dependents' membership. The membership of the spouse or other dependents of a veteran shall terminate upon the death or discharge of the veteran, unless such person or persons shall qualify for continued membership in accordance with the rules and regulations applicable for membership. (Authorized by K.S.A. 76-1908; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-3. Honorable discharge. Any member in good standing shall be entitled to an honorable discharge when proper request is made therefor. Before such discharge is granted, such member shall be required to account for all state property issued to him or her. The superintendent of the Kansas soldiers' home is hereby authorized to issue a furlough to any veteran member of the Kansas soldiers' home for the purpose of being hospitalized or domiciled in any veterans' administration facility. The superintendent is further authorized, upon the furlough of such veteran from said veterans' administration facility to readmit the said veteran to membership under the same terms and under the same conditions as the said veteran was originally admitted. During the period that such veteran is in said veterans' admin-

istration facility the status of his or her dependents shall remain unchanged. Any time that a member's current regular income is increased in excess of the applicable amount stated in K.A.R. 97-1-3, or the value of his or her assets, both real and personal, increase in excess of the applicable amount in K.A.R. 97-1-3, his or her right to continued membership shall terminate unless continued membership is justified by special needs of the member. Exception to this ruling may be granted by specific waiver of the Kansas veterans' commission. It shall be the responsibility of the member to notify the superintendent promptly upon receipt of an increase in income or assets. Further, there shall be an annual accounting to the superintendent, or his designate, of the resources of each of the members to determine his or her eligibility to continued membership. A member whose eligibility is terminated under the provisions of this paragraph shall have the right of appeal as provided in K.A.R. 97-1-4. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-4. False applications; procedure. Whenever the Kansas veterans' commission shall ascertain that a member of the home or applicant for admission has made a false statement concerning his or her physical or financial condition, has misrepresented his or her age or the age of the spouse, the age of any dependent child, or any other material matter for the purpose of obtaining admission, or continuing membership, or in order to obtain subsistence or any other benefits of the home, he or she shall be discharged in the manner provided. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-5. Misconduct; discharge. Any member who commits any felony or violates any of the rules or regulations of the Kansas soldiers' home shall be discharged in the manner provided. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-6. Guests. No member of the home shall maintain any person as a guest in the facility provided for that member for more than 24 hours without prior approval of the superintendent. (Authorized by and implementing K.S.A. 76-1927; effective Jan. 1, 1966; amended May 1, 1984.)

97-3-7. Discharge for cause; notice; procedure. Before discharging or expelling any member from the Kansas soldiers' home, the su-

perintendent shall notify such member of the right to appear before the Kansas veterans' commission at a regular meeting of the commission and show cause why he or she should not be expelled from the home. In the event such member so notified fails to appear before the commission, unless such failure to appear is due to circumstances beyond the member's control, a decision will be made by the commission based on the written records available. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966; amended May 1, 1980.)

97-3-8. Discharge; reasonable time to leave. Reasonable time as determined by the superintendent may be allowed a discharged member for leaving the home upon the payment of such charges as the superintendent may determine. (Authorized by K.S.A. 76-1929; effective Jan. 1, 1966.)

97-3-9. Application; false statements. Every admission granted by the Kansas veterans' commission shall continue in full force and effect only so long as the disability and financial dependency, which are prerequisites to admission, shall continue, and such admissions are conditioned upon the truth of the material statements and representations contained in the written application filed by the applicant. If at any time such application is found to be false and untrue in any particular manner that is a condition to lawful admission, such admission attained pursuant to such application shall be void and of no effect. (Authorized by K.S.A. 76-1927; effective Jan. 1, 1966.)

Article 4.—VETERAN MEMORIAL DONATIONS TO THE KANSAS COMMISSION ON VETERANS' AFFAIRS FOR THE CONSTRUCTION AND MAINTENANCE OF CAPITAL IMPROVEMENT PROJECTS

97-4-1. Definitions. As used in this article, unless the context clearly requires otherwise, the following terms shall have the meanings ascribed to them in this regulation: (a) "Advisory committee" means an advisory committee formed pursuant to K.A.R. 97-4-7.

(b)(1) "Capital improvement project" means any type of enhancement made pursuant to K.S.A. 73-1233, and amendments thereto. As used in this

term, "improvement" shall mean any of the following:

- (A) Construction or reconstruction;
- (B) maintenance;
- (C) restoration or renewal;
- (D) replacement or repair;
- (E) installing any equipment that becomes a part of any memorial for veterans;
- (F) extending the size of any existing facility as a memorial for veterans; or
- (G) any other type of work that provides a new facility or improves an existing facility.

This term shall include the reimprovement of a prior capital improvement project.

(2) This term shall not include any of the following:

- (A) Any project with a total cost of less than \$5,000;
 - (B) any temporary structure;
 - (C) any improvement to a temporary structure;
- or
- (D) any moveable memorial.

(c) "Commission" and "KCVA" mean the Kansas commission on veterans' affairs.

(d) "Director" means the executive director of the Kansas commission on veterans' affairs.

(e) "Project representative" means any of the following:

- (1) A donor;
- (2) any person who represents one or more donors; or
- (3) any person retaining an advisory role on behalf of donors in the ongoing operation of a fund.

(f) "Suitable memorial" means a memorial for veterans that meets community standards and the program standards of the Kansas commission on veterans' affairs in K.A.R. 97-4-2.

(g) "Undesignated donations" means donations of less than \$5,000 for capital improvement projects but not for a specific memorial for veterans. The commission shall have the authority to accept undesignated donations and assign funds to existing memorials or projects. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-2. Criteria for memorials for veterans. Each proposal for a capital improvement project shall specify a project representative, who shall consult with the director concerning the KCVA's specific needs for memorials for veterans. Each memorial shall meet the following require-

ments: (a) Each memorial shall be nondiscriminatory and nonpartisan.

(b) Each memorial shall be consistent with the architectural and historic plans and specifications of any existing facility at that location. No memorial shall be placed at the entrance to any facility.

(c) Each memorial shall be presented or displayed, or both, in accordance with these regulations.

(d) Each memorial shall be in keeping with the architectural theme of any existing facility at that location.

(e) No memorial shall interfere with the future expansion plans for any facility.

(f) Each design plan for a memorial shall designate the appropriate location, style, and size of the commemorative plaques that recognize donors. If the advisory committee determines that outside plaques are not appropriate, donations shall be recognized in a memorial book or on a memorial plaque located in the administrative building designed to recognize donors appropriately.

(g) Each memorial shall enhance awareness of veterans' sacrifices in the design. No memorial shall add any unfunded expense in upkeep of the memorial. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-3. Financing. (a) The cost of each capital improvement project shall be totally financed with private monies. Each proposal for a capital improvement project shall include the costs of the following in the cost estimate:

- (1) The preparation of preliminary reports;
- (2) the preparation of plans and specifications;
- (3) the preparation and publication of notices of hearings, resolutions, ordinances, and other proceedings;
- (4) necessary fees and expenses for consultants and any interest accrued on borrowed money during the period of construction;
- (5) land, materials, labor, and other lawful expenses incurred in planning and completing any improvement; and
- (6) ongoing maintenance and support.

(b) (1) Each advisory committee shall ensure that all funds raised for the construction of the capital improvement project, including funds necessary for ongoing maintenance, are deposited into the Kansas veterans memorial fund of the

state treasury before the acceptance of bids or the start of construction.

(2) If, at any time before the start of construction, the commission determines that funds will not be available to complete the project, all funds shall be returned by the commission to their respective donors.

(3) Memorial funds shall not be used by the commission for any purpose other than the planning, administrative work, construction, and maintenance of the memorial for veterans designated by the donor. The final expense report shall be submitted by the director to the commission and to the advisory committee within 60 days of project completion. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-4. Proposals; use of names and references. (a) Each project representative shall submit five copies of the proposal for a memorial for veterans to the director at least 10 days before the next scheduled commission meeting. The project representative shall be required to attend the commission meeting and to fully explain the proposal, including the location, purpose, cost estimate, design plans, and short-term and long-term funding sources. Each proposal accepted by the commission shall be assigned to an advisory committee for full review and development.

(b) Pursuant to K.S.A. 73-1233(d)(3) and amendments thereto, the project representative shall submit the form specified and provided by the KCVA to the director along with a written request before using any of the names and references specified in this statute. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-5. Fund-raising materials for proposed memorials. All fund-raising materials for a proposed memorial shall be reviewed by the commission and shall include the following information:

- (a) The estimated cost of the project;
- (b) the percentage of funds raised that can be used for administrative expenses;
- (c) the date on which the project will be started; and
- (d) the following statement: "If the project is not completed, all funds shall be returned to donors by the project representative, who shall make full restitution to donors less the administrative cost of returning the funds. This administrative

cost of returning the funds shall not exceed the administrative cost outlined above." (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-6. Financial reporting. (a) Each project representative shall, within 30 days after each of the quarters ending in March, June, September, and December of each year beginning when the project is approved and continuing until a project completion certificate is signed, submit to the commission a statement showing the total amount received into each fund for the approved project and the total amount expended from each fund for overhead, specifying all program expenses, administration expenses, and fund-raising expenses. Each quarterly statement for a project shall also include line items for key personnel salaries, expenses charged against the project, and the cash balances of each fund at the beginning and close of each quarter.

(b) Each quarterly statement shall become part of the official KCVA meeting minutes. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-7. Procedures for appointment of the advisory committee; dissolution of the advisory committee. (a) When a project is accepted by the commission, an advisory committee shall be appointed by the commission during a scheduled commission meeting, to further develop and refine the project.

(b) The scope and cost of each capital improvement project shall dictate the size of the advisory committee. Each advisory committee shall consist of at least the following:

(1) One or more state legislators representing the area where the memorial for veterans will be located;

(2) the commissioner representing the area where the memorial for veterans will be located;

(3) the director or the superintendent responsible for the property where the memorial for veterans will be located; and

(4) the project representative.

(c) The advisory committee shall remain active until the project is completed and the final report is submitted to the commission. The advisory committee shall be dissolved within 30 days after the final report has been accepted by the commission. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

97-4-8. Procedures following advisory committee submission of a final project plan.

Within 30 days of the director's receipt of a final project plan from an advisory committee, the following shall be submitted by the director to the secretary of administration for review: (a) The minutes from the commission meeting showing the commission's discussion and approval of the proposal;

(b) three copies of the proposal, including funding sources for the memorial, a financing budget for ongoing maintenance that includes the source of funds for maintaining the memorial, and the design plan and specifications. The design plan and specifications shall be required to be approved by the secretary of administration before submission to the joint committee on state building construction;

(c) the names of the advisory committee members; and

(d) a cover letter indicating the commission's approval of the project and a statement of assurance that the memorial meets the requirements of the KCVA. (Authorized by and implementing K.S.A. 2005 Supp. 73-1233; effective Nov. 27, 2006.)

Article 5.—FINANCIAL BENEFITS TO DEPENDENTS OF PRISONERS OF WAR, PERSONS MISSING IN ACTION, OR WHO DIED AS A RESULT OF INJURIES SUFFERED IN THE LINE OF DUTY

97-5-1. Application for benefits. Persons interested in applying for benefits provided by this chapter shall initiate a formal application to the executive director, Kansas veterans' commission, 701 Jackson Street, Topeka, Kansas 66603. The application must be complete and documented to establish legal relationship between applicant and parent, formal military evidence to establish prisoner of war, missing in action, or line of duty death during Viet Nam conflict while serving in the U.S. armed forces in the geographical area of the Viet Nam conflict of applicants parents', the name and address of the school, the anticipated date of enrollment, and evidence that the school has agreed to accept the applicant as a student. (Authorized by K.S.A. 73-1216, K.S.A. 1976 Supp. 73-1217, 73-1218; effective, E-72-19, July 17, 1972; effective Jan. 1, 1973; amended Feb. 15, 1977.)

97-5-2. Determinations of eligibility. De-

terminations as to eligibility based on parents' residency at the time of entry into military service will be made by the Kansas veterans' commission based on all evidence available at the time of application. Determinations of prisoner of war, missing in action, or line of duty death, or injury causing death while serving in the U.S. armed forces in the geographical area of the Viet Nam conflict, will be made by the Kansas veterans' commission based on all available evidence at the time of application.

Determinations of semester equivalency will be made by the Kansas veterans' commission based on all facts obtainable where an eligible dependent enrolls in any course not on a semester basis. (Authorized by K.S.A. 73-1216, K.S.A. 1976 Supp. 73-1217, 73-1218; effective, E-72-19, July 17, 1972; effective Jan. 1, 1973; amended Feb. 15, 1977.)

Article 6.—VETERANS CLAIMS ASSISTANCE PROGRAM AND THE SERVICE GRANT PROGRAM

97-6-1. Definitions. As used in this article, unless the context clearly requires otherwise, the following terms shall have the meanings specified in this regulation: (a) "Accrediting" means certifying either of the following to act as an agent in or to have a power of attorney for the preparation, presentation, or prosecution of any claim under laws administered by the secretary of the United States department of veterans affairs (USDVA):

(1) Any individual who represents a congressionally chartered veterans service organization recognized by the secretary of the United States department of veterans affairs (USDVA); or

(2) any veterans service representative employed by the Kansas commission on veterans' affairs, which is recognized by the secretary of the United States department of veterans affairs (USDVA).

(b) "Claim" means any veterans claims management activity.

(c) "Claims program officer" means the employee of a VSO participating in the service grant program who is the primary point of contact for KCVA quality assurance staff and KCVA field office staff in veterans claims assistance matters.

(d) "Commission" and "KCVA" mean the Kansas commission on veterans' affairs.

(e) "Cross-accredit" means to accredit based on the status of a veterans service representative as

an accredited and functioning veterans service representative of another veterans service organization.

(f) "Director" means the director of the veterans claims assistance program.

(g) "Executive director" means the executive director of the Kansas commission on veterans' affairs.

(h) "In-kind contribution" means any noncash input that can be given a cash value.

(i) "Interested party" means any of the following if authorized under applicable law to act or to receive information on behalf of a veteran or the veteran's spouse, dependents, or survivors:

- (1) An individual;
- (2) a judicial or other type of body; or
- (3) a legally authorized representative.

(j) "Monetary support" means an in-kind contribution, a service, or cash.

(k) "One-stop service center" means a location where service grant program participants provide services to veterans and their spouses, dependents, and survivors, using a client-centered, one-stop approach that meets conditions that include the following:

(1) Individual needs are identified, and the best way to provide assistance is determined, internally or through the coordination of departmental and community resources.

(2) An advocacy partnership is established between the client, veterans service organization, and the KCVA to insure maximum participation in all aspects of case-planning decisions.

(3) The staff members work with veterans service organizations to meet the widest array of client needs and to determine each client's eligibility for departmental services and benefits.

(4) The uniform delivery of services and the improvement of benefits are paramount.

(l) "Power of attorney" and "POA" mean a legal document granting a veterans service organization (VSO) and the service officers accredited by that VSO the legal capacity to represent a veteran in matters with the USDVA.

(m) "State headquarters" means the permanent location within Kansas that serves as the administrative center of a chartered service organization.

(n) "USDVA" means the United States department of veterans affairs.

(o) "VARO" means United States department of veterans affairs regional office in Wichita, Kansas.

(p) "Veterans service organization" and "VSO" mean an organization whose representatives provide veterans and their spouses, dependents, and survivors with information, advice, and assistance regarding the availability and acquisition of veterans' benefits under laws administered by the USDVA and other agencies. The VSO also assists in the preparation of claims and represents the veterans and their spouses, dependents, and survivors during the appeals process, if this action is necessary. A VSO is a congressionally chartered veterans service organization recognized or approved by the secretary of the USDVA for purposes of preparation, presentation, and prosecution of claims under laws administered by the USDVA. Synonyms for this term shall include "chartered service organization" and "participating veterans' organization."

(q) "Veterans service representative" and "VSR" mean a person who assists veterans in obtaining information, including military service history and medical records, necessary to obtain benefits from the USDVA. Synonyms for this term shall include "service representative," "veterans service officer," "service officer," "SO," "veterans service advocacy officer," and "veterans claims consultant." (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-2. Intent to participate; review. (a)

The KCVA forms necessary to establish intent to participate in the service grant program shall be sent by the KCVA, on or before July 10 each year, to each VSO located in the VARO. Each VSO wanting to participate in the service grant program shall submit its signed intent to participate forms on or before August 1 that year.

(b) The veterans claims assistance advisory board shall review each VSO's submitted forms to determine that VSO's eligibility pursuant to L. 2006, ch. 153 and amendments thereto. The board's chairperson shall use the forms to develop the budget for the service grant program for the upcoming budget year. Upon approval of grant fund appropriations, the veterans claims assistance advisory board shall review the budget of each approved VSO. The veterans claims assistance advisory board shall recommend to the commission the distribution of grant funds based on the number of eligible recipients, the state appropriations, and each approved VSO's budget, workload, and staffing. (Authorized by and imple-

menting L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-4. VSO services, staff, training, and other support. To retain accreditation, each VSR shall be required to be certified each year by the KCVA. To receive KCVA certification, each VSR shall attend annual training and successfully complete a written examination on all parties' duties and responsibilities and on the types of assistance available to each veteran and the veteran's spouse, dependents, and survivors. (a) All VSOs participating in the service grant program, in coordination with the director, shall develop an annual training program. Each KCVA VSR shall be required to attend annual training. Each VSR whose employer is participating in the service grant program shall attend training required by the VSOs participating in the service grant program or the annual KCVA training to retain accreditation by the VSO or KCVA, or both. This training shall include the following:

(1) Accreditation training for each individual who has been a VSR for less than 18 months, which shall include the following:

(A) An introduction to veteran advocacy designed to teach the basics of service-connected compensation, pensions, death benefits, and other USDVA programs;

(B) information about each of the USDVA programs;

(C) the necessary forms to be completed;

(D) subject matter relating to the development and submission of claims for pensions, compensation, and other veterans' entitlements; and

(E) any other subject matter determined by the veterans claims advisory board as necessary for an individual who wishes to become an accredited representative as outlined in 38 U.S.C. 5902 and for any other individual wishing to improve that individual's knowledge of the USDVA claims process;

(2) continuing education training for each individual who has been a VSR for at least 18 months or has completed the accreditation training. This continuing education shall include the following:

(A) A review of the accreditation training;

(B) claims adjudication;

(C) the appellate process and development of complicated claims; and

(D) any other subject matter determined by the veterans claims advisory board to meet the

requirements of continuing education to maintain accreditation; and

(3) the training, responsibility, involvement, and preparation of claims training program (TRIP), which is a course of study devised by the USDVA to certify all accredited representatives in USDVA claims procedures.

(b) Each VSO participating in the service grant program shall require each VSR employed by the VSO to attend training provided by the employing VSO or the KCVA annual training, or both. Each VSO cross-accrediting VSRs shall honor the training provided by the hiring VSO.

(c) Each KCVA claims review staff member located in the VARO shall be accredited as a veterans service representative and shall attend annual training provided by the KCVA or training provided by a VSO participating in the service grant program, or both. The expenses associated with the training provided to KCVA staff by VSOs shall be paid for by the KCVA.

(d) Each VSO shall ensure that each accredited veterans service representative within the organization has read and understands 38 CFR Part 14 as in effect on March 21, 2007, which is adopted by reference.

(e) Each VSO shall designate, in writing, one staff member of the VSO's state service director's office in the VARO to perform duties and functions as the VSO's claims program officer. (Authorized by and implementing K.S.A. 2006 Supp. 73-1234; effective April 27, 2007.)

97-6-5. Claims processing requirements. Each VSO shall perform the following in processing each initial claim: (a) Receiving the claim form, which a veteran can submit to the veterans claims assistance program staff in person, through a KCVA field office, or through the mail;

(b) date-stamping the claim upon receipt;

(c) establishing the claim by entering basic information about the veteran and the claim into a computer system and setting up a claim file folder;

(d) checking the claim to ensure that all information needed as part of a claim for USDVA benefits is included and that all forms are completed as required;

(e) developing the claim by reviewing the claim file folder for military service and medical information, requesting and obtaining any missing information, and reviewing all pertinent information to determine eligibility;

(f) completing any additional claim improvement actions, as necessary; and

(g) submitting the claim to the VARO for processing. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-6. Grant agreement requirements.

The director shall ensure that each grant agreement developed for the service grant program meets the following requirements: (a) Incorporates or includes, as an attachment, the standard contractual terms and conditions prescribed by the secretary of administration;

(b) identifies the parties participating in the grant agreement;

(c) identifies the scope of activities that the VSO is required to perform or to assist in the performance of;

(d) outlines the permitted and required uses and types of disclosure of protected health information;

(e) identifies the claims program officer;

(f) provides for authority for veterans claims assistance staff to audit service grant program participants' records;

(g) outlines the period of performance under the grant agreement; and

(h) specifies the maximum amount of the grant award. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-7. Responsibilities of parties to the grant agreements. Each party to a grant agreement shall promote the veterans claims assistance program and the service grant program by cooperatively developing outreach materials and working together. (a) Each party shall establish uniform program goals for all VSRs in support of the veterans claims assistance program. Each VSR shall accept any VSO designated in a POA by a veteran when submitting a claim. The VSR shall provide the veteran with a list of VSOs participating in the service grant program. If the veteran designates a nonparticipating VSO in the veteran's POA, the VSR shall notify the veteran in writing that the designated VSO does not participate in the veterans claims assistance program and shall inform the veteran of any limitations regarding the veteran's claim that could result.

Employees of the KCVA or service grant participant VSOs shall submit each claim through the office of the veterans claims assistance quality assurance program in the VARO.

(b) The director shall coordinate outreach ef-

forts among participating VSOs to reach veterans in rural areas. Participating VSOs shall provide the director with an opportunity to participate in regional and state meetings to provide information on the operation of one-stop service centers.

(c) Each participating VSO shall perform the following:

(1) Meet the reporting requirements outlined in K.A.R. 97-6-9;

(2) separately account for the uses of grant funds;

(3) utilize forms and computer software for reporting service-related information to ensure that the information is accurate;

(4) accept all claims submitted by each veteran and the veteran's spouse, dependents, and survivors; and

(5) within 30 days of signing the grant agreement, submit all documentation necessary to cross-accredit VSRs. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-8. Duration of grants; insurance requirements. (a) Each grant shall be for one state fiscal year, starting July 1 and ending the following June 30. Grant payments shall be made monthly upon receipt of each approved invoice of expenditures and monthly traffic and monetary reports. The director shall review invoices based on the criteria outlined in L. 2006, ch. 153, sec. 1(d) and amendments thereto. If payment of an invoice is denied as an ineligible expenditure, the VSO may appeal the decision in writing to the commission, which may forward the appeal to the veterans claims assistance advisory board for a recommendation within the time specified by the chair of the commission. The recommendation of the veterans claims assistance advisory board shall be reviewed by the KCVA before the KCVA makes a final determination. Any unexpended funds shall be returned by the KCVA to the state of Kansas.

(b) Each VSO shall obtain and keep in force the following types of insurance coverage from any insurance company authorized to do business in Kansas, during the term of the grant contract:

(1) Commercial general liability insurance, including premises or operations coverage, contractual coverage, and, if applicable, products or completed operations coverage;

(2) professional liability insurance, which is also known as errors and omissions insurance, for er-

rors or the failure of the insured to perform work as promised in a contract, with minimum liability limits of \$500,000 for each person and \$1,000,000 for each occurrence; and

(3) workers compensation coverage meeting all statutory requirements.

(c) Each VSO shall annually provide the director with a copy of that VSO's insurance policy or policies. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-9. Format and frequency of reports. (a) On or before the tenth day of each month, each participating VSO shall submit the following to the director on forms provided by the director:

(1) The monthly traffic report, which shall contain the following information for the previous calendar month:

- (A) The number of contacts;
- (B) the number of pieces of correspondence;
- (C) the number of USDVA forms processed;
- (D) the number of non-USDVA forms processed;
- (E) the number of USDVA claims allowed;
- (F) the number of USDVA claims denied;
- (G) the number of USDVA board hearings; and
- (H) the number of appearances before a USDVA rating board;

(2) the monthly monetary report. This report shall contain the dollar amount of each award for which an award notice was received during the previous calendar month and the date the claim was submitted, the number of awards, the monthly compensation, and any back payments for claims allowed. This report shall also indicate the total annual compensation for each of the following types of award:

- (A) Non-service-connected pensions;
- (B) service-connected compensation;
- (C) death pensions;
- (D) dependency and indemnity compensation;
- (E) insurance compensation;
- (F) education compensation;
- (G) burial compensation;
- (H) accrued benefit compensation;
- (I) waivers approved;
- (J) awards as a result of notice of disagreement;
- (K) miscellaneous awards; and
- (L) confirmed and continued awards; and

(3) a review and verification findings report showing the following:

(A) The specific rating decisions reviewed that month;

(B) any corrective action required; and

(C) the date on which any corrective action was implemented.

(b) The director shall review the reports submitted by each VSO and shall provide the following summary reports to the KCVA:

(1) A quarterly traffic and monetary report summary; and

(2) an annual traffic and monetary report summary. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-10. Quality assurance. (a) A quality assurance program office in the VARO's one-stop service center, as specified in L. 2006, ch. 153, sec. 1(c) and amendments thereto, shall be established by the KCVA. KCVA VSRs shall be appointed by the KCVA as quality assurance program staff, who shall review each claim for both of the following:

(1) Development of the claim. The staff shall ensure that all of the development required for each claim is completed. This development shall include notifying any claimant or representative from whom further information is needed and, if necessary, following up with any claimant or representative.

(2) Eligibility of the claimant. The staff shall review each claim for the claimant's eligibility for the benefit being sought, based on the following:

- (A) The claimant's military service record;
- (B) the character of the claimant's discharge;
- (C) any contributions made by the claimant to the veterans' benefit program, if applicable;
- (D) any qualifying disability, if applicable;
- (E) delimiting dates;
- (F) any requests for VA counseling;
- (G) any change in the veterans' benefit program; and
- (H) any processing limitations.

(b) The staff of the KCVA quality assurance program shall notify the following, in writing and as applicable, about the USDVA's claims decision or decisions:

- (1) The claimant;
- (2) any VSO designated in the claimant's POA;
- (3) a VSR in a designated field office; and
- (4) any other designee of the claimant. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)

97-6-11. Director's duties. The director

shall oversee the day-to-day operations of the veterans claims assistance program and the service grant program. The director shall report directly to the commission when acting as the chairperson of the veterans claims assistance advisory board, pursuant to L. 2006, ch. 153, sec. 2(a) and amendments thereto. The director's duties shall include the following: (a) Developing the budget for the veterans claims assistance program and the service grant program;

(b) collecting data and information about benefits and services and making the data and information available to veterans and their spouses, dependents, and survivors;

(c) working with and annually updating VSOs participating in the service grant program and receiving input for use by the KCVA and the legislature;

(d) reviewing invoices and requests for payment and ensuring that each VSO's requests for payment meet the statutory and regulatory requirements;

(e)(1) Collecting the annual audited financial statement from each VSO participating in the service grant program; and

(2) reviewing each statement;

(f) maintaining a record of each case handled by a VSR for the KCVA and the VSOs, which shall contain at least the following information:

(1) The name of the veteran;

(2) the claim or case number of the veteran; and

(3) the monthly benefit received by the veteran;

(g) ensuring that an adequate, trained staff is in place to provide support and information on federal and state benefits to veterans and their spouses, dependents, and survivors;

(h) increasing veterans' access to claims assistance through one-stop service centers to which veterans and their spouses, dependents, and survivors can turn for information and assistance;

(i) providing and maintaining the field offices necessary to serve the needs of veterans and their spouses, dependents, and survivors throughout the state. These offices shall provide services in cooperation with the one-stop service centers;

(j) preparing a report on the veterans claims assistance program and the service grant program and presenting the report to the legislature not later than January 31 each year; and

(k) calling a meeting of the veterans claims assistance advisory board at least quarterly. (Authorized by and implementing L. 2006, ch. 153, sec. 1; effective April 27, 2007.)